

To: McCoy, Erin[McCoy.Erin@epa.gov]
From: George, Gazi (ConsultingI)
Sent: Mon 9/26/2016 6:19:45 PM
Subject: RE: Notice of Disapproval Report No 30

Erin

Sorry about the mix-up, I should have called you first but I was just of a plane heading home.

I will go over and do a better job. Age is a good excuse

From: McCoy, Erin [mailto:McCoy.Erin@epa.gov]
Sent: Friday, September 23, 2016 12:09 PM
To: George, Gazi (ConsultingI) <gazi.george@titan-intl.com>
Cc: Troyanovich, Mike (Legal) <mike.troyanovich@titan-intl.com>; Mills, Brian (Environmental) <brian.mills@titan-intl.com>; Hylton Jackson (Hylton.Jackson@dnr.iowa.gov) <Hylton.Jackson@dnr.iowa.gov>; Steinman, Ty (Legal) <ty.steinman@titan-intl.com>; Pemberton, Scott <Pemberton.Scott@epa.gov>; Albert, Eric (ENRD) <Eric.Albert@usdoj.gov>; Peterson, Mary <Peterson.Mary@epa.gov>
Subject: RE: Notice of Disapproval Report No 30

Gazi, I'm a bit confused by your response. You mention EPA comment #9 and then EPA comment #4, but in the final sentence, you mention EPA comments #2 and #9. I'm going to assume that comment #2 was a typo and it should have been comment #4 for the remainder of this response and that you do not disagree with comment #2. If this is incorrect, please let me know.

As for EPA comments #4 and #9, progress Report #29 was approved with comments because, as EPA noted in the approval letter, EPA did not agree with of some of Dico's statements in the revised report but did not feel that the report needed to be rewritten as we could approve it and note that we didn't agree with all the statements. As outlined in the approval letter dated July 5, 2016, EPA comment #4 specifically addressed the same issue as the comments noted in your e-mail from the current disapproval letter. This comment stated :

EPA Comment #4 - Page 7 states that Dico will solicit USEPA to conduct some feasibility studies for alternative long term, more economical alternatives in lieu of the current discussion with USEPA and the City of Des Moines regarding the future of the site and its development potential. As a potentially responsible party

under CERCLA, Dico is responsible for conducting the evaluation of remedial alternatives and for implementing selected remedial actions to address contamination at the site after EPA approval.

I assume your reference to the meeting that included EPA, DOJ, the City and Dico is to the March, 2016 settlement meeting regarding the ongoing litigation. Assuming that is correct, that meeting and all settlement discussions have nothing to do with Dico's Progress Report obligations. Nor do they alter in any way Dico's obligations under CERCLA to conduct evaluations of remedial alternatives and implement the EPA selected remedial alternative.

Finally, Dico is obliged to implement the current remedy and existing orders applicable to the Site, which preclude any demolition activity without advance EPA approval. You seem to imply that you were merely told to wait for the outcome of sampling, when in fact Dico has a legal obligation not to take actions that violate existing orders (including the 1994 Building UAO), including demolition.

While EPA understands that Dico may come to an agreement in the future that may alter their responsibilities at the site, those documents are not negotiated, signed, or in place. As such, EPA will continue to review reports according to the current binding legal documents, which state that it is the PRP's responsibility, not EPA's, to evaluate remedial alternatives and implement the EPA selected remedial alternative, after EPA has approved the alternative and changed the ROD. Therefore, comments #4 and #9 stand and need to be addressed in the revised Progress Report #30.

Please let me know if you need any additional clarification on this matter. Thanks!



Erin McCoy, P.G. | Remedial Project Manager

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From: George, Gazi (Consulting1) [<mailto:gazi.george@titan-intl.com>]
Sent: Friday, September 16, 2016 6:11 PM
To: McCoy, Erin <McCoy.Erin@epa.gov>
Cc: Troyanovich, Mike (Legal) <mike.troyanovich@titan-intl.com>; Mills, Brian (Environmental) <brian.mills@titan-intl.com>; Hylton Jackson (Hylton.Jackson@dnr.iowa.gov) <Hylton.Jackson@dnr.iowa.gov>; Steinman, Ty (Legal) <ty.steinman@titan-intl.com>
Subject: Notice of Disapproval Report No 30

I received your September 8, 2016 letter today, Friday September 16, 2016

I will start by referring the letter to our Contract Hydrogeology firm to go over your technical issues

Once I receive the response I will discuss the conclusions & recommendations with Titan International (Mr. Troyanovich) and will send you the official response

Please note that item 9 was a statement that you accepted in our previous submittal based on our conversation with Mary Peterson during the meeting that included EPA, DOJ and the City besides Dico.

If this were acceptable in the 29th report, I am surprised it is rejected now. Also item 4 page 3 (section 2.3) of the Specific Comments is directly related to item 9 (on page 4).

We were told to wait till USEPA finishes the testing and see how the testing of the site impacts the site demolition and future upkeep. Without knowing the outcome of the site, it will be futile to waste time, effort and funds to evaluate other technologies for a site that has been remediated under EPA supervision since 1987.

I suggest items 2 & 9 not to be inserted as reasons for rejecting a report because they were initiated in open, good faith discussions with EPA.

Thank you for your understanding

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